REMARKS

The application has been amended and is believed to be in condition for allowance.

Claims 21-33 were examined.

Amendments

The previously pending claims have been amended. In order to present a clean set of claims, the previously pending claims have been replaced with new claims.

New claims 46 and 47 are directed to a data packet selection method at the downstream device where new claim 46 is the corresponding method claim of prior system claim 32. Claim 47 is based on former claim 22.

Further amendments have been made to the independent claims to distinguish between a threshold used at the downstream device to select data packets and the threshold at the upstream device which separates two initial count values. The threshold at the upstream device is much greater than the predetermined threshold at the downstream device used for selecting the packets. Basis for the amendments can be found in the penultimate paragraph of page 9.

No new matter is entered by way of these amendments.

Rejections Under 35 USC 101

Claims 21 and 29 were rejected under section 101 as failing to provide a tangible result. New claims 34 and 41 correspond to prior claims 21 and 29.

The comparing recitation has been removed from claim 34 (prior claim 21). The claim recites a tangible result in that there is recited incrementing the packets counter and modifying the packet header. The claim also now makes clear that data packets are generated consistent with prior claim 29.

Claim 41 (prior claim 29) also recites a tangible result in that there is recited i) means (9a) for <u>initialising the register to an initial count value</u> ... (as per the wherein clause), ii) means (9b) for <u>incrementing the contents of the register</u> ..., and iii) means (9c) for <u>copying the register contents into a current count value field in the packet header block</u>.

Withdrawal of the section 101 rejection is solicited.

Rejections Under 35 USC 102, 103

Claims 21, 25, 26, 28, and 29 were rejected as anticipated by BLAAUW 5,617,561.

Claims 22-24, 27, and 30-33 were rejected as obvious over BLAAUW in view of ESTAN "New Directions in Traffic Measurement and Accounting".

No other rejections are pending.

BLAAUW is not found to disclose each of the features of claim 34 (prior claim 21).

BLAAUW does not disclose selecting an initial count value at the upstream device from a set of predetermined initial values such that the difference between two consecutive initial values in that set is very much greater than a predetermined threshold used in a downstream device to distinguish packets, where the predetermined threshold is a threshold defining the quantity of data transmitted through a connection.

Rather, in BLAAUW an initial sequence number is selected from a range of sequence numbers in a valid window such that the selected initial sequence number does not correspond to the sequence number of an "in transit" message. The valid window of sequence numbers is updated according to a Last Received Sequence Number (LRSN) of a message received at a receiving node. The LRSN is transmitted from the receiving node to the transmission node on interrogation (transmission of a START message) from the transmitting node. The valid window is updated

to include sequence numbers of messages prior to the LRSN since these sequence numbers have been received and can be reused (col. 5, lines 26-42). There is no determination of the difference between two consecutive initial values and comparison of this difference with a predetermined threshold defining the quantity of data transmitted through a connection.

BLAAUW does not disclose comparing the predetermined threshold in the downstream device with the difference between the current count value and the immediately lower initial value in the set of predetermined initial values, whereby the difference between two consecutive initial values is very much greater than said predetermined threshold.

In BLAAUW there is no disclosure of a threshold comparison being performed at the receiving node.

Moreover, in BLAAUW there is no disclosure of a difference between the current count value (LRSN) and an immediately lower initial value being determined. Instead, the receiving node merely sends the current count value (i.e. the LRSN) to the transmission node.

Rather, the comparison of sequence numbers referred to by the Examiner relates to comparing at the upstream device (the transmitting device) and merely involves incrementing a Last Send Number and comparing it to a high watermark level (threshold indicating a point at which there is danger of running out of valid sequence numbers) or a highest valid number (threshold

indicating the last number in a valid window of sequence numbers).

Moreover, in BLAAUW there is no disclosure of a downstream device selecting data packets according to a predetermined threshold of quantities of data through a connection.

The present invention, as defined in the independent claims, enables the selection of data packets according to the volume of information transmitted. This then allows the downstream device to distinguish between long items of work and short items so that short items may be given processing priority to improve system performance.

In particular, it is no longer necessary to take account of the number of received packets connection by connection. The simple comparison between the current count value and the initial value immediately lower gives the number of packets emitted since the start of the connection. There is no requirement for the implementation of a complex counter for each connection node.

The same features are missing with respect to claims 41, 44, and 46.

In particular, with regard to system claim 41, in BLAAUW there is no disclosure of the difference between two consecutive initial values being determined and the comparison of this difference with a predetermined threshold.

In particular, with regard to system claims 44 and 46, in BLAAUW there is no disclosure of a threshold comparison being performed at the receiving node. Moreover, there is no disclosure of a difference between the current count value (LRSN) and an immediately lower initial value being determined. Instead, the receiving node merely sends the current count value (i.e. the LRSN) to the transmission node.

ESTAN does not cure these deficiencies.

Thus, the independent claims are neither anticipated nor rendered obvious.

The dependent claims are believed allowable at least for depending from an allowable claim and therefore need not be further addressed.

Reconsideration and allowance of all the claims are respectfully requested.

This amendment is believed to be fully responsive and to put the case in condition for allowance. Entry of the amendment, and an early and favorable action on the merits is earnestly requested. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Please charge the fee of $220 for the extra independent claim added herewith, to our credit card.

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The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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